

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 24TH JANUARY 2007 / 4TH MAGHA 1928

WP(C).No. 2846 of 2007(L)

PETITIONER:

M/S.INDIAN OIL CORPORATION LTD.,
ERNAKULAM, REP.BY A.SELVAM,
DEPUTY MANAGER (FINANCE).

BY ADV. SRI.JOSE JOSEPH

RESPONDENTS:

1. THE ASST. COMMISSIONER (ASSESSMENT) I
SPECIAL CIRCLE II, COMMERCIAL TAXES,
ERNAKULAM.
2. THE DEPUTY COMMISSIONER (APPEALS) II,
COMMERCIAL TAXES, ERNAKULAM.

BY GOVT.PLEADER SRI,SAJAN JAMES.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P. (C) .NO.2846 of 2007-L

Dated this the 24th day of January, 2007

JUDGMENT

The Indian Oil Corporation is the petitioner. It challenges Ext.P6 interim order passed by the appellate authority directing it to pay 50% of the balance amount due in 2 instalments, the first instalment of 25% on or before 31-1-07 and balance 25% on or before 26-2-07. According to the petitioner, the appellate authority has passed the order mechanically, without considering the decisions of this Court as to how the discretion should be exercised. Reliance is placed on 71 STC 347 and also the decision in N.Rajan Nair Vs. Income Tax Officer & another 165 ITR 650.

2. The appellate authority found that a portion of the claim made by the petitioner is genuine and therefore it has made out a prima facie case for granting stay. But, the petitioner claims absolute stay. But, having regard to the principles of balance of convenience, I feel that the order passed by the appellate authority is just and proper, especially in view of the principles laid down by the Apex Court in Asst.Collector. C.E., Chandan

Nagar Vs. Dunlop India Ltd. (AIR 1985 SC 330). Further, this Court will interfere with an interim order which is passed at the discretion of the appellate authority if it shows that it is manifestly unjust and perverse. I find no such ground has been made out in this case. No serious prejudice is caused to the writ petitioner also.

In the result, the Writ Petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,JUDGE.

MS